

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP

AUG 13 2019

JULIA C. DUDLEY, CLERK
BY 
DEPUTY CLERK

UNITED STATES OF AMERICA :

v. :

TRAVIS LEE PENNINGTON :

OMAR KAREEM BANKS :

JEFFERY WAYNE CAUDILL a/k/a :

"Sam" :

CARL LEE DAVIS, JR. :

JEREMY DAVID MALLORY :

MISTY NELMS :

JOSHUA BARRETT SUTHERLAND :

a/k/a "Bacon" :

Case No. 2:19CR00010

Violations: 18 U.S.C. §§ 922, 924(c), 1071
21 U.S.C. §§ 841**INDICTMENT****COUNT ONE**

The Grand Jury charges that:

1. On or about December 5, 2018, in the Western District of Virginia and elsewhere, TRAVIS LEE PENNINGTON, knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed the following firearms:

- a) Ruger, model LCP, .380 caliber pistol;
- b) Taurus International, model PT111 Millennium, 9 mm pistol; and
- c) Taurus International, model PT145 PRO, .45 caliber pistol;

in and affecting interstate or foreign commerce.

2. All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT TWO

The Grand Jury charges that:

1. On or about February 7, 2019, in the Western District of Virginia and elsewhere, OMAR KAREEM BANKS, knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed the following firearms:

- d) Hi Point, model CF380, .380 caliber pistol; and
- e) Kel-tec, model P32, .320 caliber pistol;

in and affecting interstate or foreign commerce.

2. All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT THREE

1. On or about May 1, 2019, in the Western District of Virginia and elsewhere, JEFFERY WAYNE CAUDILL, knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed a firearm, a Walther, model PK380, .380 caliber pistol, and 3 rounds of .380 caliber ammunition, in and affecting interstate or foreign commerce.

2. All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT FOUR

The Grand Jury charges that:

1. On or about June 4, 2019, in the Western District of Virginia and elsewhere, CARL LEE DAVIS, JR., knowing he was an unlawful user of or addicted to a controlled substance, knowingly possessed the following firearms:

- a) Smith & Wesson, model M&P 45 Shield, .45 caliber pistol; and
- b) Marlin Firearms Co., model 30AW, 30-30 caliber rifle;

in and affecting interstate or foreign commerce.

2. All in violation of Title 18, United States Code, Sections 922(g)(3) and 924(a)(2).

COUNT FIVE

1. On or about June 4, 2019, in the Western District of Virginia and elsewhere, CARL LEE DAVIS, JR. knowingly used or carried during and in relation to, and possessed in furtherance of, a drug trafficking crime for which he may be prosecuted in a court of the United States (conspiracy to distribute and possess with the intent to distribute a mixture or substance containing methamphetamine), firearms.
2. One of the firearms possessed by CARL LEE DAVIS, JR. was a machinegun.
3. All in violation of Title 18, United States Code, Section 924(c)(1)(A)(i) and 924(c)(1)(B)(ii).

COUNT SIX

1. On or about June 4, 2019, in the Western District of Virginia and elsewhere, CARL LEE DAVIS, JR. knowingly possessed and received a firearm—a Marlin Firearms Co., model 30AW, 30-30 caliber rifle—that had had the importer’s or manufacturer’s serial number removed, obliterated, and altered and had been shipped and transported in interstate or foreign commerce.
2. All in violation of Title 18, United States Code, Sections 922(k) and 924(a)(1)(B).

COUNT SEVEN

1. On or about June 4, 2019, in the Western District of Virginia and elsewhere, CARL LEE DAVIS, JR. knowingly possessed a machinegun, a Bushmaster Firearms, model XM15-E2S, .223 caliber rifle.
2. All in violation of Title 18, United States Code, Sections 922(o) and 924(a)(2).

COUNT EIGHT

The Grand Jury charges that:

1. On or about May 21, 2019, in the Western District of Virginia and elsewhere, JEREMY DAVID MALLORY knowingly and intentionally distributed and possessed with the intent to distribute a mixture or substance containing methamphetamine, a Schedule II controlled substance.
2. All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT NINE

1. On or about July 19, 2019, through on or about July 29, 2019, in the Western District of Virginia, MISTY NELMS harbored and concealed Jeremy David Mallory ("Mallory"), a person for whose arrest a warrant or process had been issued under the provisions of a law of the United States, so as to prevent his discovery and arrest, after notice and knowledge of the fact that a warrant or process had been issued for Mallory's apprehension, and which warrant and process had been issued on a felony charge.

2. All in violation of Title 18, United States Code, Section 1071.

COUNT TEN

1. On or about March 28, 2019, in the Western District of Virginia and elsewhere, JOSHUA BARRETT SUTHERLAND, knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed a firearm, a Leinad, Inc. Derringer, model DD, .45 caliber/410 pistol, in and affecting interstate or foreign commerce.

2. All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

NOTICE OF FORFEITURE

1. Upon conviction of one or more of the felony offenses alleged in this Indictment,

the defendant(s) shall forfeit to the United States:

- a. any firearms and ammunition involved or used in the commission of said offenses, or possessed in violation thereof, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

2. The property to be forfeited to the United States includes but is not limited to the following property:

Firearms and Ammunition

	Asset ID #	Item Description
(1)	19-ATF-013391	Hi Point, model CF380, .380 caliber pistol SN: P8023033
(2)	19-ATF-013393	Kel-tec, model P32, .320 caliber pistol SN: CDY00
(3)	19-ATF-013392	8 Rounds Federal Ammunition CAL:32/380
(4)	19-ATF-013394	4 Rounds Sellier & Bellot Ammunition CAL:32
(5)	Pending	Walther, Model PK380, .380 caliber pistol and 3 rounds of .380 ammunition
(6)	19-ATF-026495	Smith & Wesson M&P 45 Shield Pistol CAL:45 SN:HXB2485
(7)	19-ATF-026498	Marlin Firearms Co. 30AW Rifle CAL:30-30 SN:None
(8)	19-ATF-026511	Bushmaster Firearms XM15-E2S Rifle CAL:223 SN:L054046
(9)	19-ATF-026496	Unknown Rifle CAL:Unknown SN:None
(10)	19-ATF-026497	Remington Arms Company, INC. 7400 Rifle CAL:30-06 SN:8188488
(11)	19-ATF-026500	Taurus International Unknown Revolver CAL:Unknown SN:IR22015
(12)	19-ATF-026502	North American Arms Unknown Revolver CAL:Unknown SN:G07969
(13)	19-ATF-026503	Remington Arms Company, INC. 870 Express Shotgun CAL:12 SN:AB092690A
(14)	19-ATF-026504	Smith & Wesson 686 Revolver CAL:357 SN:AJV6226
(15)	19-ATF-026506	Sig Sauer (Sig-Arms) P250 Pistol CAL:45 SN:EAK034111
(16)	19-ATF-026507	Ruger P89 Pistol CAL:9 SN:313-85299
(17)	19-ATF-026508	Ratmil Unknown Pistol CAL:Unknown SN:P0626
(18)	19-ATF-026509	Remington Arms Company, INC. 700 Rifle CAL:7 SN:E6690325
(19)	19-ATF-026510	Savage Arms Inc. (CD) 62 Rifle CAL:22 SN:L330558
(20)	19-ATF-026513	Marlin Firearms Co. 25MN Rifle CAL:22 SN:11498059
(21)	19-ATF-026515	Mossberg 835 ULTI-MAG Shotgun CAL:12 SN:UM547144
(22)	19-ATF-026517	Ruger M77 Mark II Rifle CAL:270 SN:782-30564
(23)	19-ATF-026518	Remington Arms Company, INC. 870 Express Magnum Shotgun CAL:12 SN:A555939M
(24)	19-ATF-026522	Savage 110 Rifle CAL:30-06 SN:G040006
(25)	19-ATF-026523	Matrix Aerospace Corporation Unknown Rifle CAL:Unknown SN:None
(26)	19-ATF-026524	830 Rounds Assorted Ammunition CAL:Assorted

3. If any of the above-described forfeitable property, as a result of any act or omission

of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States to seek forfeiture of any other property of the defendant up to the value of the above-described forfeitable property, pursuant to 21 U.S.C. § 853(p).

A TRUE BILL, this 13 day of August, 2019.

/s/Grand Jury Foreperson

Thomas Cullen my LB

THOMAS T. CULLEN
United States Attorney